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SINGLE BENCH

CF/1202

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR
W.P. (S) No. 1194 / 2007

Petitioner : Yogesh Kumar Vishwakarma, S/o Late Shri G.R.Vishwakarma, Aged about 30 years, R/o C/o Shri Shiv Kumar Vishwakarma, Quarter No.P-3, Section – 1, Housing Board Colony, Shankar Nagar, Raipur (C.G.)

P.R. No. 1446/07 Kunal Das
Presented on 19/2/07
dated

VERSUS

Respondents :

1) State of Chhattisgarh – Through the Secretary, Housing & Environment Department, D.K.S. Bhavan, Raipur (C.G.)

2) The Deputy Secretary, State of Chhattisgarh, Housing & Environment Department, DKS Bhavan, Raipur (C.G.)

3) The Secretary, General Administration Department, State of Chhattisgarh, DKS Bhawan, Raipur (C.G.)

4) The Chhattisgarh Public Service Commission – Through the Secretary, Shankar Nagar, Raipur (C.G.)

5) The Chhattisgarh Housing Board, Through its Commissioner, Shankar Nagar, Raipur (C.G.)

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WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1194 of 2007

Petitioner — Yogesh Kumar Vishwakarma

Versus

Respondents — State of Chhattisgarh and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri P. Diwakar, Senior Advocate with Shri P.K. Bhaduri, Advocate for the petitioner.

ORDER

(Passed on 28th day of February, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. By this petition, the petitioner challenges the validity of the impugned order dated 4.1.2007 (P/10) issued by the Deputy Secretary, Housing & Environment Department/respondent No. 2 and further prays for a direction to the Chhattisgarh Public Service Commission (hereinafter referred to as 'the Commission') to take steps for absorbing the service of the petitioner in the Commission.
2. The indisputable facts, in nutshell, are that the petitioner was originally employed on the post of Assistant in the Department of Environment & Urban Development vide order dated 3.2.1996. Thereafter, the petitioner was sent on deputation to the Commission vide order dated 4.2.2003 (P/1). The petitioner gave his consent for his absorption in the Commission on 19.5.2004. Creation of 88 posts in the Commission was approved by the Government, but the petitioner was not absorbed in spite of the fact that there was availability of the post. Vide order dated

(55)

4.1.2007, the services of 15 officers, who were sent on deputation, including the petitioner, were withdrawn to the Chhattisgarh Housing Board, Raipur (hereinafter referred to as 'the Board'). The said order is impugned herein. The petitioner has challenged the order of withdrawal of deputation on the ground that the Commission ought to have absorbed his services, as the petitioner has given consent for absorption. It was further contended that the impugned order is bad in view of the fact that the consent of the Commission was not obtained before the impugned order was passed. The petitioner fulfils all the qualification for being absorbed as Assistant Grade-III.

3. On query, learned counsel appearing for the petitioner is not in a position to submit as what is his right for absorption in the Commission. Whether he was sent on deputation as his substantial appointment was in the Department of Environment and Urban Development or whether lien was maintained in the parent department. The petitioner cannot claim any right for absorption in the Commission after the deputation period is over. The Parent department has full right to recall the services of its employees from the department/establishment, wherein the petitioner was sent on deputation. The petitioner has completed two years on deputation and there are several other employees, who have been recalled from deputation. It appears, that there is no violation of any right as the petitioner has no right to absorption in the Commission

4. The Supreme Court in the case of **Umapati Choudhary Vs. State of Bihar and another**[1], has defined 'deputation' in the following terms:-

"Deputation can be aptly described as an assignment of an employee (commonly referred to as the deputationst) of one department or cadre or even an organisation (commonly referred to as the parent department or lending authority) to another department or cadre or organization (commonly referred to as the borrowing authority). The necessity for sending on deputation arises in public interest to meet the exigencies of public service. The concept of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation or not".

5. This petition lacks material facts and is devoid of merit. As a result and for the aforementioned reasons, this petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

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1 (1999) 4 SCC 659

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